



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

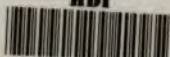
We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

HDI



HL 4829 2

New Jersey

An Act ^{relating to} the Liability of an Employer --
establishing an Elective Schedule of Compensation --
Approved April 4, 1911. To which is appended --

3
US/NJ
357.7
F11

HARVARD
LAW
LIBRARY

Bd. Oct. 1930

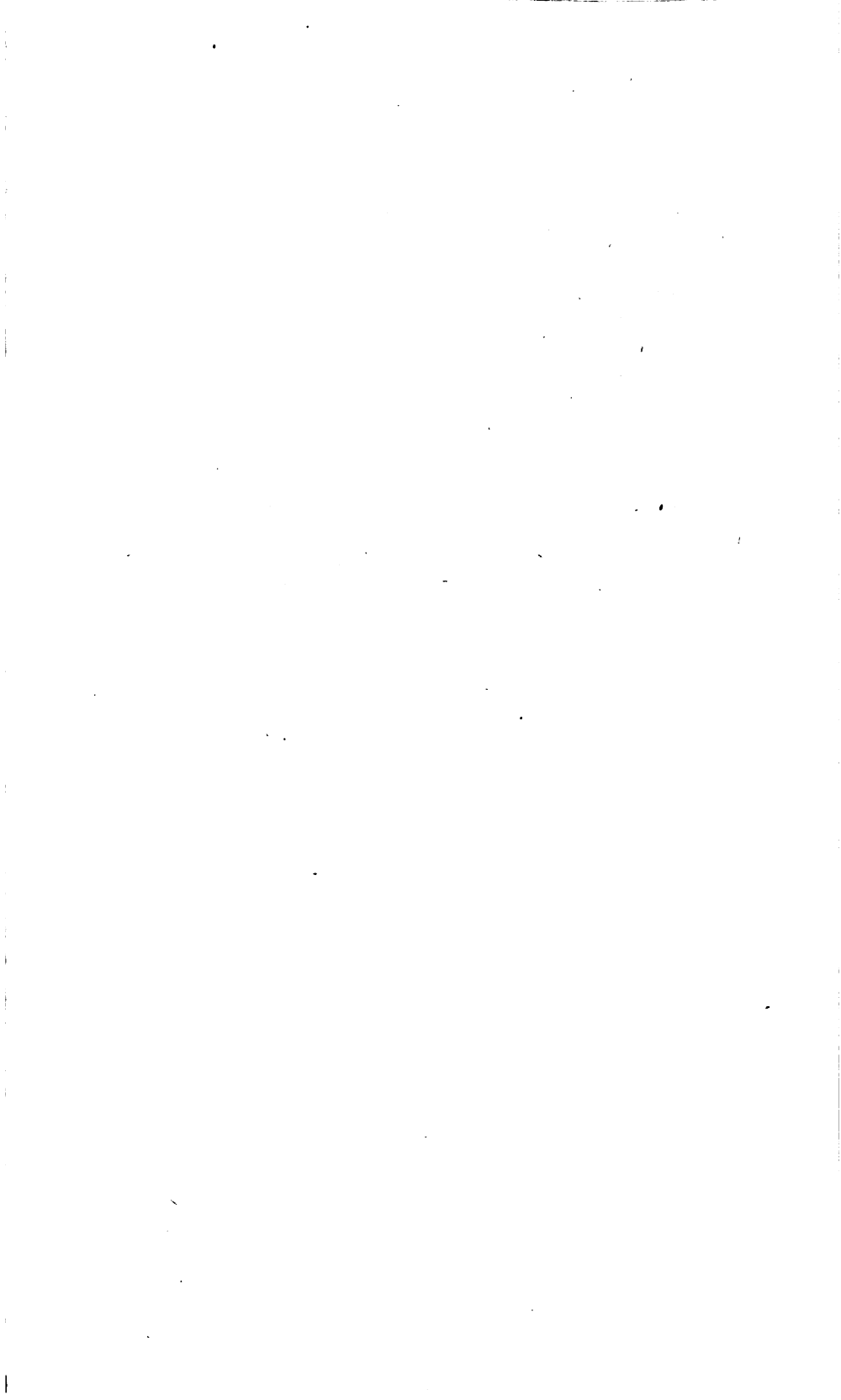


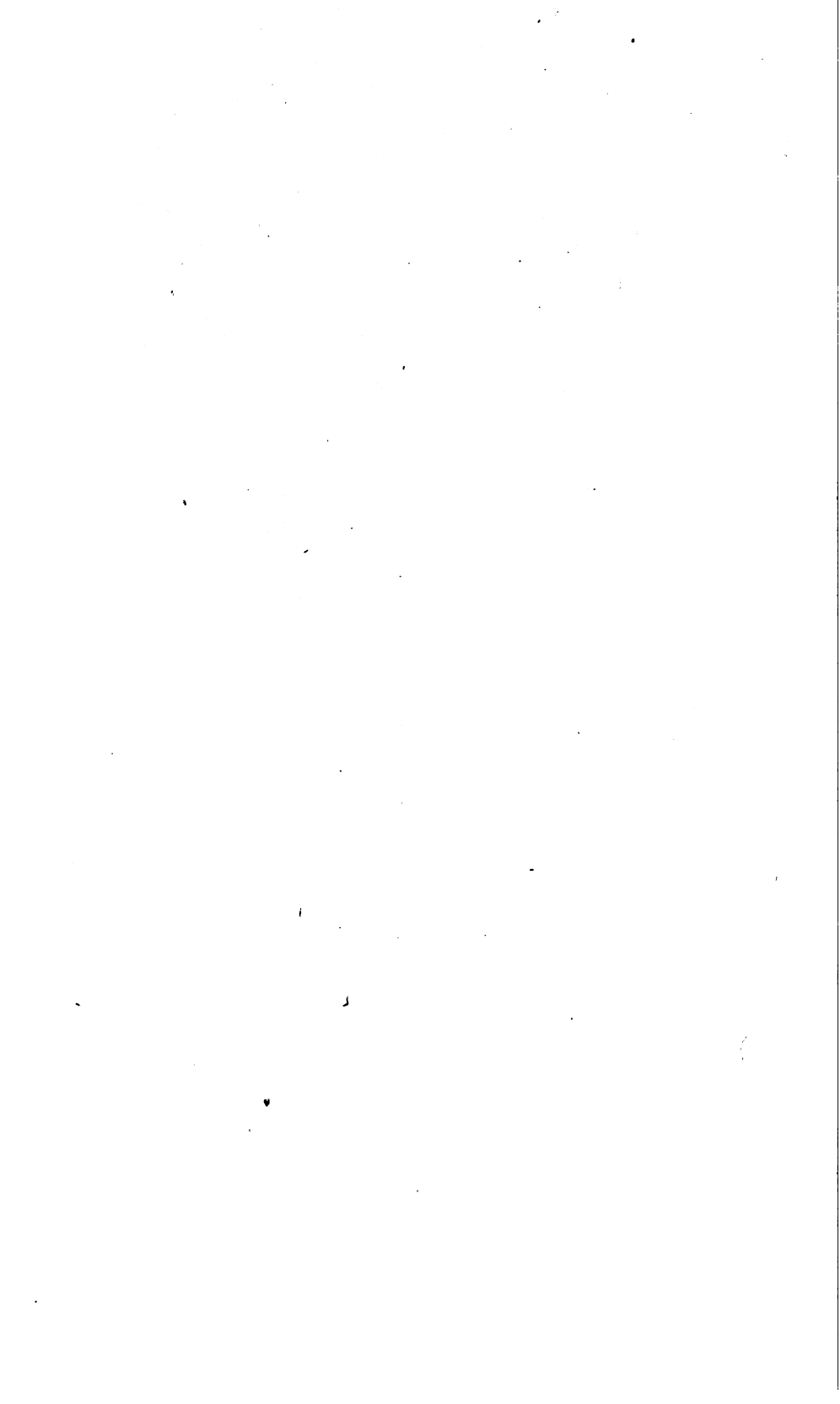
HARVARD LAW LIBRARY

GIFT OF

Dept. of Labor, New Jersey.

Received *Feb. 23, 1916*





STATE OF NEW JERSEY. 138

AN ACT

PRESCRIBING THE

Liability of an Employer to Make Compensation for Injuries Received by an Employee in the Course of Employment,

ESTABLISHING

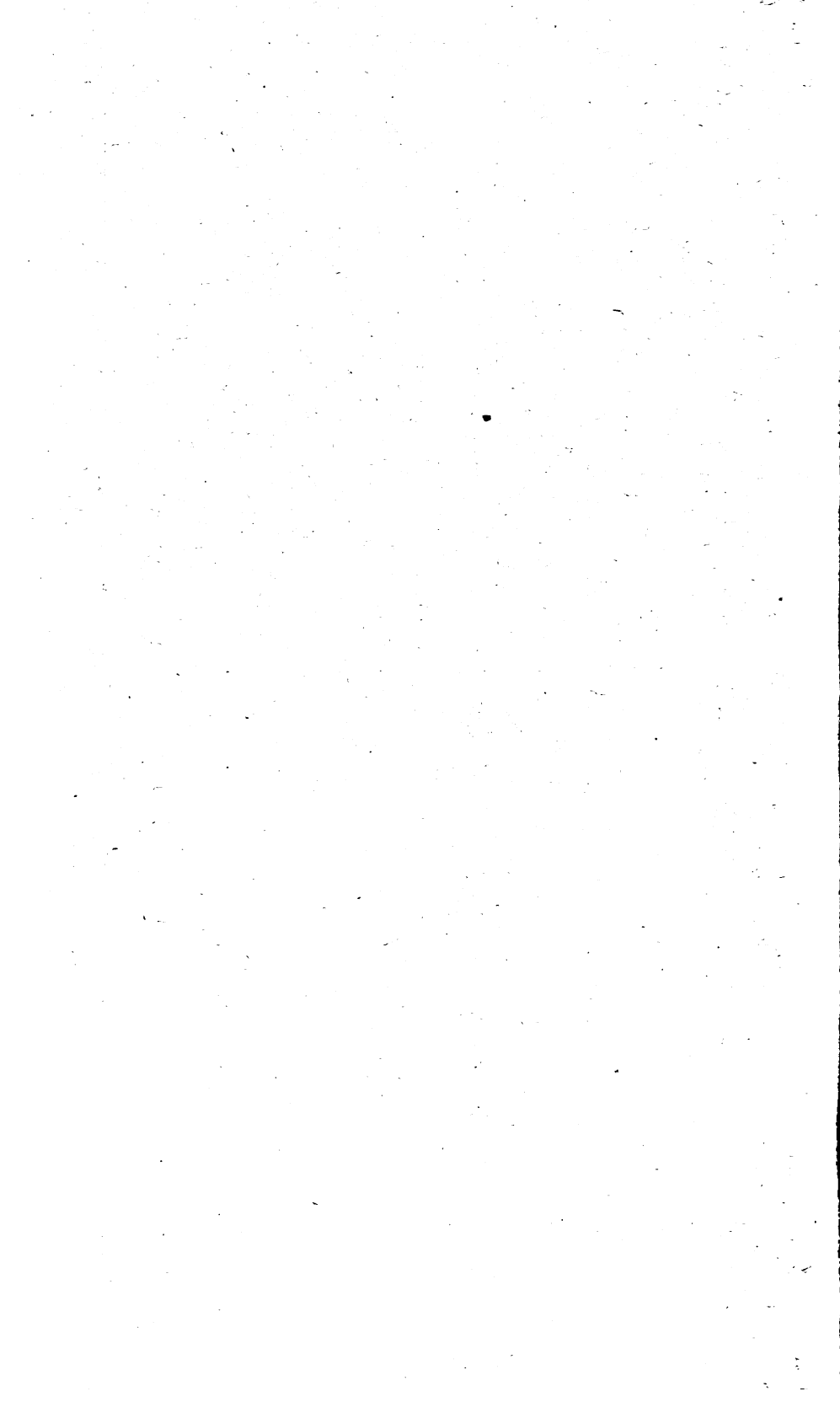
An Elective Schedule of Compensation, and Regulating Procedure for the Determination of Liability and Compensation Thereunder, Approved April 4, 1911

TO WHICH IS APPENDED

An Act Creating the Employers' Liability Commission, approved April 27, 1911; also, a Supplement to the "Liability Act," approved May 2, 1911.

TRENTON, N. J.
MacCrellish & Quigley, State Printers, Opposite Post Office.

1911.



New Jersey. Laws, statutes, etc. Workmen's
compensation law
H.F.
135
W927
911

AN ACT *Ct*

PRESCRIBING THE

Liability of an Employer to Make Compensation for Injuries Received by an Employee in the Course of Employment,

ESTABLISHING

An Elective Schedule of Compensation,
and Regulating Procedure for the Determination of
Liability and Compensation Thereunder,
Approved April 4, 1911.

TO WHICH IS APPENDED

An Act Creating the Employers' Liability Commission, approved
April 27, 1911; also, a Supplement to the "Liability
Act," approved May 2, 1911.

TRENTON, N. J.
MacCrellish & Quigley, State Printers, Opposite Post Office.

1911.

5/15/11
3-117
F1.

FEB 23, 1913.
Lep. "galm", 187.

CHAPTER 95.

An act prescribing the liability of an employer to make compensation for injuries received by an employe in the course of employment, establishing an elective schedule of compensation, and regulating procedure for the determinatoin of liability and compensation thereunder.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

SECTION I. COMPENSATION BY ACTION AT LAW.

1. When personal injury is caused to an employe by accident arising out of and in the course of his employment, of which the actual or lawfully imputed negligence of the employer is the natural and proximate cause, he shall receive compensation therefor from his employer, provided the employe was himself not willfully negligent at the time of receiving such injury, and the question of whether the employe was willfully negligent shall be one of fact to be submitted to the jury, subject to the usual superintending powers of a court to set aside a verdict rendered contrary to the evidence.

Employe
entitled to
compensa-
tion for
accidental
injury.

Fact deter-
mined by
jury.

2. The right to compensation as provided by section I of this act shall not be defeated upon the ground that the injury was caused in any degree by the negligence of a fellow employe; or that the injured employe assumed the risks inherent in or incidental to or arising out of his employment or arising from the failure of the employer to provide and maintain safe premises and suitable appliances; which said grounds of defense are hereby abolished.

Certain
pleas
abolished.

3. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract, written or verbal, with a subcontractor to do all or any part of such work comprised in such con-

Contract
not to bar
liability.

tractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer under this act for injury caused to an employee of such contractor or subcontractor by any defect in the condition of the ways, works, machinery or plant if the defect arose or had not been discovered and remedied through the negligence of the employer or some one entrusted by him with the duty of seeing that they were in proper condition. This paragraph shall apply only to actions arising under section one.

**Application
of act in
case of
death.**

4. The provisions of paragraphs one, two and three shall apply to any claim for the death of an employee arising under an act entitled "An act to provide for the recovery of damages in cases where the death of a person is caused by wrongful act, neglect or default," approved March third, eighteen hundred and forty-eight, and the amendments thereof and supplements thereto.

**Burden of
proof on
defendant.**

5. In all actions at law brought pursuant to section I of this act, the burden of proof to establish willful negligence in the injured employee shall be upon the defendant.

**Claim
against
compensation.**

6. No claim for legal services or disbursements pertaining to any demand made or suit brought under the provisions of this act shall be an enforceable lien against the amount paid as compensation, unless the same be approved in writing by the judge or justice presiding at the trial, or in case of settlement without trial, by the judge of the circuit court of the district in which such issue arose; *provided*, that if notice in writing be given the defendant of such claim for legal services or disbursements, the same shall be a lien against the amount paid as compensation, subject to determination of the amount and approval hereinbefore provided.

Proviso.

SECTION II. ELECTIVE COMPENSATION.

**Compensation
under
agreement.**

7. When employer and employee shall by agreement, either express or implied, as hereinafter provided, accept the provisions of section II of this act, compensation for personal injuries to or for the death of such employee by accident arising out of and in the course of his employment shall be made by the employer without regard

to the negligence of the employer, according to the schedule contained in paragraph eleven, in all cases except when the injury or death is intentionally self-inflicted, or when intoxication is the natural and proximate cause of injury, and the burden of proof of such fact shall be upon the employer.

Exceptions.

8. Such agreement shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in section II of this act, and an acceptance of all the provisions of section II of this act, and shall bind the employe himself and for compensation for his death shall bind his personal representatives, his widow and next of kin, as well as the employer, and those conducting his business during bankruptcy or insolvency.

Agreement deemed surrender of rights to other method.

9. Every contract of hiring made subsequent to the time provided for this act to take effect shall be presumed to have been made with reference to the provisions of section II of this act, and unless there be as a part of such contract an express statement in writing, prior to any accident, either in the contract itself or by written notice from either party to the other, that the provisions of section II of this act are not intended to apply, then it shall be presumed that the parties have accepted the provisions of section II of this act and have agreed to be bound thereby. In the employment of minors, section II shall be presumed to apply unless the notice be given by or to the parent or guardian of the minor.

Employment subject to this act.

10. The contract for the operation of the provisions of section II of this act may be terminated by either party upon sixty days' notice in writing prior to any accident.

Termination of contract.

11. Following is the schedule of compensation:

**Schedule of payments.
Temporary disability.**

(a) For injury producing temporary disability, fifty per centum of the wages received at the time of injury, subject to a maximum compensation of ten dollars per week and a minimum of five dollars per week; *provided*, that if at the time of injury the employe receives wages of less than five dollars per week, then he shall receive the full amount of such wages per week. This com-

Proviso.

pensation shall be paid during the period of such disability, not, however, beyond three hundred weeks.

Complete disability.

(b) For disability total in character and permanent in quality, fifty per centum of the wages received at the time of injury, subject to a maximum compensation of ten dollars per week and a minimum of five dollars per week; *provided*, that if at the time of injury the employe receives wages of less than five dollars per week, then he shall receive the full amount of wages per week. This compensation shall be paid during the period of such disability, not, however, beyond four hundred weeks.

Proviso.

Partial disability.

(c) For disability partial in character but permanent in quality, the compensation shall be based upon the extent of such disability. In cases included by the following schedule the compensation shall be that named in the schedule, to wit:

Thumb.

For the loss of a thumb, fifty per centum of daily wages during sixty weeks.

First finger.

For the loss of a first finger, commonly called index finger, fifty per centum of daily wages during thirty-five weeks.

Second finger.

For the loss of a second finger, fifty per centum of daily wages during thirty weeks.

Third finger.

For the loss of a third finger, fifty per centum of daily wages during twenty weeks.

Fourth finger.

For the loss of a fourth finger, commonly called little finger, fifty per centum of daily wages during fifteen weeks.

Phalange.

The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of one-half of such thumb, or finger, and compensation shall be one-half the amounts above specified.

More than one phalange.
Proviso.

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb; *providing, however*, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great toe.

For the loss of a great toe, fifty per centum of daily wages during thirty weeks.

Other toes.

For the loss of one of the toes other than a great toe, fifty per centum of daily wages during ten weeks.

For the loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be one-half of the amount above specified.

Phalange
of toe.

The loss of more than one phalange shall be considered as the loss of the entire toe.

More than
one
phalange.
Hand.

For the loss of a hand, fifty per centum of daily wages during one hundred and fifty weeks.

For the loss of an arm, fifty per centum of daily wages during two hundred weeks.

Arm.

For the loss of a foot, fifty per centum of daily wages during one hundred and twenty-five weeks.

Foot.

For the loss of a leg, fifty per centum of daily wages during one hundred and seventy-five weeks.

Leg.

For the loss of an eye, fifty per centum of daily wages during one hundred weeks.

Eye.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the provisions of clause (b).

Both hands,
etc.

In all other cases in this class the compensation shall bear such relation to the amounts stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. Should the employer and employe be unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, the amount of compensation shall be settled according to the provisions of paragraph twenty hereof.

In other
cases.

The amounts specified in this clause are all subject to the same limitations as to maximum and minimum as are stated in clause (a).

Maximum
and mini-
mum
amount.

12. In case of death compensation shall be computed but not distributed on the following basis:

Basis of
computa-
tion in case
death.

(1) Actual dependents.

If orphan or orphans, a minimum of twenty-five per centum of wages of deceased, with ten per centum additional for each orphan in excess of two, with a maximum of sixty per centum.

If widow alone, twenty-five per centum of wages.

If widow and one child, forty per centum of wages.

If widow and two children, forty-five per centum of wages.

If widow and three children, fifty per centum of wages.

If widow and four children, fifty-five per centum of wages.

If widow and five children or more, sixty per centum of wages.

If widow and father or mother, fifty per centum of wages.

If grandparents, grandchildren, or minor, or incapacitated brothers or sisters, twenty-five per centum of wages.

Distribution of compensation in case of death.

Compensation in case of death shall be computed on the basis of the foregoing schedule, but shall be distributed according to the laws of this State providing for the distribution of the personal property of an intestate decedent, unless decedent has in fact left a will.

(2) No dependents.

Sickness and burial.

Expenses of last sickness and burial not exceeding two hundred dollars.

Orphans and minors.

In computing compensation to orphans or other children, only those under sixteen years of age shall be included, and only during the period in which they are under that age, at which time payment on account of such child shall cease.

Weekly compensation. Proviso.

The compensation in case of death shall be subject to a maximum compensation of ten dollars per week and a minimum of five dollars per week; *provided*, that if at the time of injury the employe receives wages of less than five dollars per week, then the compensation shall be the full amount of such wages per week. This compensation shall be paid during three hundred weeks.

Duration.

Aliens excepted.

Compensation under this schedule shall not apply to alien dependents not residents of the United States.

No compensation first two weeks.

13. No compensation shall be allowed for the first two weeks after injury received, except as provided by paragraph fourteen, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in paragraph fifteen.

Medical and hospital services supplied first two weeks.

14. During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services and medicines, as and when needed, not to

exceed one hundred dollars in value, unless the employee refuses to allow them to be furnished by the employer.

15. Unless the employer shall have actual knowledge of the occurrence of the injury, or unless the employee, or some one on his behalf, or some of the dependents, or some one on their behalf, shall give notice thereof to the employer within fourteen days of the occurrence of the injury, then no compensation shall be due until such notice is given or knowledge obtained. If the notice is given, or the knowledge obtained within thirty days from the occurrence of the injury, no want, failure, or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced by such want, defect or inaccuracy, and then only to the extent of such prejudice. If the notice is given, or the knowledge obtained within ninety days, and if the employee, or other beneficiary, shall show that his failure to give prior notice was due to his mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of another person, or to any other reasonable cause or excuse, then compensation may be allowed, unless, and then to the extent only that the employer shall show that he was prejudiced by failure to receive such notice. Unless knowledge be obtained, or notice given, within ninety days after the occurrence of the injury, no compensation shall be allowed.

As to notification of employer.

16. The notice referred to may be served personally upon the employer, or upon any agent of the employer upon whom a summons may be served in a civil action, or by sending it through the mail to the employer at the last known residence or business place thereof within the State, and shall be substantially in the following form:

Service of notice.

To (name of employer) :

You are hereby notified that a personal injury was received by (name of employee injured), who was in your employ at (place) while engaged as (nature of employment), on or about the () day of (), nineteen hundred and (), and that compensation will be claimed therefor.

Form of notice.

Signed,

(

).

Sufficiency of notice.

but no variation from this form shall be material if the notice is sufficient to advise the employer that a certain employe, by name, received an injury in the course of his employment on or about a specified time, at or near a certain place. Notice served at the office of, or on the person who was the employe's immediate superior, shall be a compliance with this act.

Examination of employe as to physical condition.

17. After an injury, the employe, if so requested by his employer, must submit himself for examination at some reasonable time and place within the State, and as often as may be reasonably requested, to a physician or physicians authorized to practice under the laws of this State. If the employe requests, he shall be entitled to have a physician or physicians of his own selection present to participate in such examination. The refusal of the employe to submit to such examination shall deprive him of the right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect of the period of suspension.

In case of dispute question submitted to court.

18. In case of a dispute over, or failure to agree upon, a claim for compensation between employer and employe, or the dependents of the employe, either party may submit the claim, both as to questions of fact, the nature and effect of the injuries, and the amount of compensation therefor according to the schedule herein provided, to the judge of the court of common pleas of such county as would have jurisdiction in a civil case, or where there is more than one judge of said court, then to either or any of said judges of such court, which judge is hereby authorized to hear and determine such disputes in a summary manner, and his decision as to all questions of fact shall be conclusive and binding.

Payment in case of death.

19. In case of death, where no executor or administrator is qualified, the said judge shall, by order, direct payment to be made to such person as would be appointed administrator of the estate of such decedent upon like terms as to bond for the proper application of compensation payments as are required of administrators.

Procedure in dispute

20. Procedure in case of dispute shall be as follows:

Either party may present a petition to said judge setting forth the names and residences of the parties and the facts relating to employment at the time of injury, the injury in its extent and character, the amount of wages received at the time of injury, the knowledge of the employer or notice of the occurrence of said injury, and such other facts as may be necessary and proper for the information of the said judge, and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto. This petition shall be verified by the oath or affirmation of the petitioner.

**Petition
to court.**

Upon the presentation of such petition the same shall be filed with the clerk of the court of common pleas, and the judge shall fix a time and place for the hearing thereof, not less than three weeks after the date of the filing of said petition. A copy of said petition shall be served as summons in a civil action and may be served within four days thereafter upon the adverse party. Within seven days after the service of such notice the adverse party shall file an answer to said petition, which shall admit or deny the substantial averments of the petition, and shall state the contention of the defendant with reference to the matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for a petition.

**Notice of
hearing.**

**Answer
filed.**

At the time fixed for hearing or any adjournment thereof the said judge shall hear such witnesses as may be presented by each party, and in a summary manner decide the merits of the controversy. This determination shall be filed in writing with the clerk of the common pleas court, and judgment shall be entered thereon in the same manner as in causes tried in the court of common pleas, and shall contain a statement of facts as determined by said judge. Subsequent proceedings thereon shall only be for the recovery of moneys thereby determined to be due, provided that nothing herein contained shall be construed as limiting the jurisdiction of the Supreme Court to review questions of law by certiorari. Costs may be awarded by said judge in his discretion, and when so awarded the same costs shall be allowed, taxed and collected as are

**Hear
witnesses.**

**Determi-
nation.**

**Subsequent
proceed-
ings.**

As to costs.

allowed, taxed and collected for like services in the common pleas court.

**Amount
may be
commuted.**

21. The amounts payable periodically as compensation may be commuted to one or more lump sum payments by the judge of the court of common pleas having jurisdiction as set forth in the preceding paragraph, upon the application of either party, in his discretion, provided the same be in the interest of justice. Unless so approved, no compensation payments shall be commuted.

**Agreement
or award
may be
modified.**

An agreement or award of compensation may be modified at any time by a subsequent agreement, or at any time after one year from the time when the same became operative it may be reviewed upon the application of either party on the ground that the incapacity of the injured employe has subsequently increased or diminished. In such case the provisions of paragraph seventeen with reference to medical examination shall apply.

**Compensation a preferential
lien.
Claims not
assignable.**

22. The right of compensation granted by this act shall have the same preference against the assets of the employer as is now or may hereafter be allowed by law for a claim for unpaid wages for labor. Claims or payments due under this act shall not be assignable, and shall be exempt from all claims of creditors and from levy, execution or attachment.

SECTION III. GENERAL PROVISIONS.

**What
constitutes
willful
negligence.**

23. For the purposes of this act, willful negligence shall consist of (1) deliberate act or deliberate failure to act, or (2) such conduct as evidences reckless indifference to safety, or (3) intoxication, operating as the proximate cause of injury.

**Use of
certain
words.**

Wherever in this act the singular is used the plural shall be included: where the masculine gender is used, the feminine and neuter shall be included.

Synonyms.

Employer is declared to be synonymous with master and includes natural persons, partnerships and corporations; employe is synonymous with servant and includes all natural persons who perform service for another for financial consideration, exclusive of casual employments.

Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand, and amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot.

As to amputations.

24. In case for any reason any paragraph or any provision of this act shall be questioned in any court and shall be held to be unconstitutional or invalid, the same shall not be held to affect any other paragraph or provision of this act, except that sections I and II are hereby declared to be inseparable, and if either section be declared void or inoperative in an essential part, so that the whole of such section must fall, the other section shall fall with it and not stand alone. Section I of this act shall not apply in cases where section II becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be in extension of the common law.

As to constitutionality of any provision.

Relation of sections of act.

25. Every right of action for negligence, or to recover damages for injuries resulting in death, existing before this act shall take effect, is continued, and nothing in this act contained shall be construed as affecting any such right of action, nor shall the failure to give the notice provided for in section II, paragraph fifteen of this act, be a bar to the maintenance of a suit upon any right of action existing before this act shall take effect.

Rights of action in previous cases.

26. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Repealer.

27. This act shall take effect on the fourth day of July next succeeding its passage and approval

Effective.

Approved April 4, 1911.

CHAPTER 24I.

An Act creating the employers' liability commission and prescribing its powers and duties, and requiring reports to be made by the employers of labor upon the operations of the employers' liability law for the information of said commission.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

**Commission
appointed
by Gov-
ernor.**

1. The Governor is hereby authorized to appoint six citizens of this State as an employers' liability commission, who shall hold their offices for the term of two years and until their successors are appointed and qualified.

**No com-
pensation;
expenses.**

They shall receive no compensation for their services, but their actual traveling expenses incurred upon the business of the commission shall be paid by the State Treasurer, upon warrants approved by the president of the said commission.

Officers.

The commission shall have power to choose one of their number as president and one of their number as secretary, and shall have power to appoint a clerk. The expenses of the commission, the salary of the secretary and of the clerk shall be paid from appropriations made for that purpose in any annual or supplemental appropriation bill. It shall be the duty of the commission to observe in detail, so far as possible, the operations throughout the State of the recent act of the Legislature commonly known as "The Employers' Liability Act," entitled "An act prescribing the liability of an employer to make compensation for injuries received by an employe in the course of employment, establishing an elective schedule of compensation and regulating procedure for the determination of liability and compensation thereunder," approved April fourth, one thousand nine hundred and eleven.

Duties.

**Employees
to report
injuries,
giving
details.**

2. From and after the fourth day of July next, when the said law becomes operative, every employer of labor within the State of New Jersey shall report to said commission, upon the occurrence of any injury to any

of his employes the name and nationality of the employe so injured, the nature and extent of such injury, whether said injured employe and the employer at the time of said injury were subject to the provisions of section one or section two of said act, and the amount of compensation when determined, together with such other facts relating to such injury as the commission may request. The information thus received shall be tabulated, from time to time, and the records thereof shall be the private records of the commission; they shall not be made public or open to inspection unless in the opinion of the commission the public interests shall require it, and they shall not be used as evidence against any employer in any suit or action at law brought by any employe for the recovery of damages. The commission shall hold meetings, from time to time, as they may deem necessary, and shall present to each session of the Legislature a report showing the operations under the said act during the preceding year, together with any suggestions or recommendations which they may deem necessary or proper for the improvement of the said act, in order to accomplish with the greatest efficiency the purposes of the said act.

**Information
tabulated.**

Meetings.

**Annual
Report.**

3. This act shall take effect immediately.

Approved April 27, 1911.

CHAPTER 368.

A Supplement to an act entitled "An act prescribing the liability of an employer to make compensation for injuries received by an employe in the course of employment, establishing an elective schedule of compensation, and regulating procedure for the determination of liability and compensation thereunder," approved April fourth, one thousand nine hundred and eleven.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

Contracts
presumed
to continue.

1. Every contract of hiring, verbal, written or implied from circumstances, now in operation or made or implied prior to the time limited for the act to which this act is a supplement to take effect, shall, after this act takes effect, be presumed to continue subject to the provisions of section two of the act to which this act is a supplement, unless either party shall, prior to accident, in writing, notify the other party to such contract that the provisions of section two of the act to which this act is a supplement are not intended to apply.

Effective.

2. This act shall take effect on the fourth day of July next succeeding its passage and approval.

Approved May 2, 1911.

E. J. L. C.
2/23/16

